



**EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS**  
**Richard K. Sullivan, Jr., Secretary**  
**Grant Announcement**

**Request for Responses (RFR) ENV 14 DCS 02**  
**Dated: March 28, 2013**

**Parkland Acquisitions and Renovations for Communities (PARC) Grant Program**  
**FY 14**

## **1. GRANT OPPORTUNITY SUMMARY:**

**A. PROPOSALS SOUGHT FOR:** Financial assistance to municipalities for the acquisition of recreation land, development of new parks, or the renovation of existing parks.

**B. OVERVIEW AND GOALS:** The Executive Office of Energy and Environmental Affairs (EEA) protects, conserves, and restores the natural resources of the Commonwealth. To fulfill this mission, Richard K. Sullivan, Jr., Secretary of EEA, is making available funding for the FY 14 Parkland Acquisitions and Renovations for Communities (PARC) Grant Program. This program is intended to provide funding to cities and towns to acquire and develop land for park and outdoor recreation purposes.

The PARC Grant Program is a component of the Patrick Administration's goal of expanding outdoor recreational opportunities across the Commonwealth – particularly in urban areas. This RFR is part of the Administration's efforts to protect land for urban populations. It is a reimbursement program.

**C. ELIGIBLE PROJECTS:** Eligible projects are those for the purchase of parkland, development of a new park, or renovation of an existing park by any municipality with an approved Open Space and Recreation Plan. (See further detail on eligible projects in Section 2B.)

**D. ELIGIBLE APPLICANTS:** Applications will be accepted from municipalities that have Open Space and Recreation Plans that are approved or currently under review (see further detail on eligible applicants in Section 2A).

**E. APPLICATION DEADLINE:** Wednesday, July 17, 2013 at 3:00 pm. (See further detail on deadlines and grant program calendar in Section 4.)

**F. FUNDING AVAILABILITY:** All awarded grants will be made as reimbursement for work completed by the municipality. The maximum reimbursement available is \$400,000. In rare cases, exceptions may be made at EEA's discretion. (See further detail on Funding Availability in Section 2C).

**G. BUDGET REQUIREMENT:** Applicants selected to receive grant funding must show the use of funds from non-state sources for the municipality's portion of the program and have a successful City Council or Town Meeting vote that appropriates 100% of the total project cost. They may, however, use Community Preservation Act funds. The land must **not** be purchased or park development or renovation must **not** be started until the selected Applicant has executed a contract with the Commonwealth. All projects must provide appropriate public access. (See further detail on budget requirement in Section 2D.)

**H. TOTAL ANTICIPATED DURATION OF CONTRACT(S):** The contract period will begin on the date that EEA signs the contract. Contracts issued pursuant to this RFR must expend 100% of costs associated with the approved project on or before June 30, 2014 or June 30, 2015, depending on the specific project, in order to be eligible for the total grant reimbursement amount (see further detail on anticipated duration of contract(s) in Section 2F).

**I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM:** This RFR is issued according to 301 CMR 5.00 (referenced as the Urban Self-help Program), 815 CMR 2.00 (Grants and Subsidies). All properties for which grant assistance is provided must be open to the general public (not residents only) for appropriate active recreational use. All properties will become protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to recreation use in accordance with M.G.L. Chapter 45 (see further detail in Attachment A).

**J. CONTACT INFORMATION:** Melissa Cryan  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street – Suite 900  
Boston, MA 02114  
617-626-1171  
[melissa.cryan@state.ma.us](mailto:melissa.cryan@state.ma.us)  
<http://www.mass.gov/eea/dcs-grants>

## 2. Performance and Contract Specifications

**A. ELIGIBLE APPLICANTS:** This RFR is open to

- Municipalities

*Community requirements:* Communities must have an approved Open Space and Recreation Plan on file with the Division of Conservation Services by the application deadline. A draft Open Space and Recreation Plan may be filed with the application by the deadline as well. A community submitting a draft plan must have completed its public participation process. See the attached application packet for details. A list of a community's OSRP status can be found through the link at the bottom of this website: <http://www.mass.gov/eea/grants-and-tech-assistance/grants-and-loans/dcs/grant-round-process-dcs.html>.

*Population requirements:* Cities of any size, Cape Cod communities, and towns with more than 35,000 residents are eligible for the grant maximum of \$400,000. Towns with less than 35,000 residents are eligible for a maximum grant award of \$50,000, unless the proposed project is accessible via public transportation and/or has parking for 100 cars. Those projects will be eligible for the grant maximum of \$400,000.

*Multiple Applications:* Multiple applications will be accepted from the same municipality. Projects involving renovations of the same type in multiple parks, such as resurfacing playgrounds or installation of basketball courts, may be packaged into one application. More esoteric themes that incorporate many parks and projects under one application theme, such as "Improving the Historic District", must be packaged into separate applications. Unrelated renovations must be submitted as individual applications. Given the high volume of applications in recent grant rounds, EEA reserves the right to limit awards to one per municipality; however, each municipality is welcome to submit multiple applications.

**B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:** EEA seeks to further the protection of suitable

conservation and recreation land within the Commonwealth, as well as making more land available for recreation in urban areas. To this end, financial assistance is available to municipalities for the acquisition of recreation land, development of new parks, or the renovation of existing parks. Please note that PARC grants do not fund only park designs, but can fund only construction work. Exceptions may be made in rare circumstances at EEA's sole discretion.

*Eligibility* – communities must:

1. Have an approved Open Space and Recreation Plan on file with the Division of Conservation Services by the application deadline. A draft plan is also acceptable provided that it was submitted to DCS within the last 12 months. A community submitting a draft plan with its application must have completed its public participation process, at a minimum. A draft plan will contain all nine sections of an OSRP. A condition of final payment will be to receive a final approval letter from DCS on any conditionally approved OSRP. A list of communities' OSRP status can be found through the link at the bottom of this website: <http://www.mass.gov/eea/grants-and-tech-assistance/grants-and-loans/dcs/grant-round-process-dcs.html>.
2. Submit a grant application prior to the acquisition of the subject property (land already owned by the community is not eligible for a grant award). Property that is purchased before receiving an executed contract from DCS **will not** be reimbursed. Costs associated with the development or renovation of a park before receiving an executed contract from DCS **will not** be reimbursed.
3. Have no unresolved protected open space conversion issues with the Executive Office of Energy and Environmental Affairs (see EEA Article 97 Disposition Policy at: <http://www.env.state.ma.us/mepa/article97policy.aspx>).
4. Submit an appraisal(s), if applicable (see Attachment E for specifications).

*Program regulation reminder.* It is understood that any property acquired with DCS grant assistance is protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to recreation use in accordance with M.G.L. Chapter 45. All properties for which grant assistance is provided must be open to the general public (not residents only) for appropriate active recreational use. No major alteration of the property, or changes in the proposed uses, at any point in the future can take place without the prior approval of EEA.

**C. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:** The maximum reimbursement available is based on the applicant community's equalized valuation per capita decile rank and ranges from 52% to 70% of the total project cost. Community reimbursement rates are available at <http://www.mass.gov/eea/docs/eea/dcs/reimbursement-rates/reimbursement-rate-mar23-2011.pdf>. The maximum award for any single project is \$400,000, but may be increased, in rare cases, at the discretion of EEA. Applicants must submit an appraisal(s) (see Section 3B) (if applicable) and a specific grant request as part of the application package.

Costs eligible for reimbursement include all approved project costs incurred on or after a selected Applicant's contract execution date and on or before June 30, 2014 or June 30, 2015 (depending on the project), such as engineering, design, construction, construction supervision, and acquisition. Ineligible project costs include, but are not limited to, costs associated with the preparation and submission of an application in response to this RFR, staff salaries, equipment and goods used for non-recreational purposes, such as security cameras or dog waste bags, volunteer time, or donations.

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift

the suspension if available funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

Products funded with this grant (signs, fencing, landscaping timbers, structures, etc.) must be constructed of wood products grown and manufactured in Massachusetts unless the grantee can demonstrate that wood is not a suitable material or that Massachusetts grown and manufactured products are not available or will cost more than 10% more than equivalent products (MGL Chapter 30B Section 20). Where possible, Grantees should use firms that have signed agreements with the Department of Agricultural Resources as part of the Commonwealth Quality Program, which verifies their sustainable practices and that the products are grown and manufactured in Massachusetts.

**D. BUDGET REQUIREMENT:** Applicants selected to receive grant funding must show the use of funds from non-state sources through a City Council or Town Meeting vote. Non-state funding sources include, but are not limited to, other grants from private or non-profit foundations, and cash contributions from local partners or individuals. As the PARC program is a **REIMBURSEMENT** grant program, EEA can only reimburse on the total amount spent as shown by canceled municipal checks. Any non-state funding sources must be deposited into a municipal account. Therefore, the City Council or Town Meeting vote must appropriate 100% of the total project cost. Funds from other state grant programs, with the exception of Community Preservation Act funds, may not be used as the community's portion of funding. The program regulations included in the RFR identify eligible project costs. Eligible costs are also listed in Paragraph C (above). Attachment D includes sample municipal votes. Any votes that occur prior to the submission of a PARC grant application **MUST** be reviewed by Melissa Cryan for approval.

**E. PROJECT TERMS:** If awarded, all projects will be required to abide by the Standard Commonwealth of Massachusetts Terms and Conditions and the EEA Supplemental Terms and Conditions. In addition, all final contracts are subject to successful negotiation of a Final Scope of Services. Please note that EEA does not guarantee that any contracts may result from this RFR or that any particular funding level will be awarded. It is anticipated that projects could commence immediately upon EEA's awards announcement. The awarded contracts will be reviewed during their course and, upon request by the Contractor, may be extended or otherwise amended only at the sole discretion of EEA. Any extensions granted will not necessarily change, or increase, the monetary value of the contract.

**F. ANTICIPATED DURATION OF CONTRACTS:** Contracts will end on June 30, 2014 or June 30, 2015, depending on the project. Extension of the contract is at the sole discretion of EEA. All land must be purchased on or before June 30, 2014 and all construction work must be completed on or before June 30, 2014 or June 30, 2015 (depending on the project) to be eligible for reimbursement.

**G. DELIVERABLES, OWNERSHIP, AND CREDIT DUE:** Acquisitions resulting from this RFR must be held by the municipality. Development and renovation projects must be done on land that is owned by the municipality and under the care and control of the Parks Department or Commission. EEA representatives must be invited to any public events sponsored by the Applicant in celebration of a PARC grant award.

**H. REPORTING:** Quarterly reports are required to be filed with the grant manager.

**I. INVOICING:** The PARC program is a **reimbursement** program. Applicants selected to receive grant funding will be required to submit a PARC Project Agreement, State Standard Contract, and billing forms, which will be sent to Applicants with their award letter. See the full application packet for more information. Land must not be purchased and design and construction work for which reimbursement will be sought must not be started until **after** the participant has an executed contract from EEA. Only

approved expenses incurred during the period of contract are eligible for reimbursement.

### 3. Instructions for Application Submission

**A. EVALUATION CRITERIA:** Each application will be scored using the following measures (see the full application in Attachment A for more detailed description of the evaluation criteria):

- An evaluation of the project's consistency with current EEA priorities (60%)
- An evaluation of the demographic characteristics of the community in which it is located (40%)

A project Selection Committee composed of members of the Executive Office of Energy and Environmental Affairs staff will review all applications. After completing preliminary review, site visits, and ratings, the Selection Committee will develop comments and draft recommendations, with or without conditions. These draft recommendations are subject to further review, including by EEA senior management and by the Secretary of EEA, prior to final approval.

**B. APPLICATION SUBMISSION INSTRUCTIONS:** Applications must be received by **3:00 pm, Wednesday, July 17, 2013**. Any application received after the deadline will be rejected. A postmark will not be accepted for verification of date of submission. Applications will **not** be accepted by fax machine or electronic mail. The outside of the package should be marked RFR ENV 14 DCS 02. In an effort to reduce waste, we ask that applications be **double sided**, except for maps and graphics, and **held together with a binder clip**. **Please do not use binders or other office supplies to package the application.** One **original** (clearly identified as such) and **two paper copies** of the application package shall be submitted to:

Melissa Cryan  
RE: ENV 14 DCS 02  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street – Suite 900  
Boston, MA 02114

A complete application package includes a completed PARC Application Form, and the supporting documentation listed in Section C: Additional Required Documents. Failure to provide any of the materials listed below may result in the disqualification of the Proposal.

Project proposals must include the following:

- ☐ Application Form that must be signed by an authorized signatory for the applicant organization
- ☐ Municipal Open Space and Recreation Plan (if not already on file with DCS)
- ☐ Acquisition projects – appraisal report(s)

See the Application Form (provided in Attachment A of this document) for more detail on required and recommended documents.

**C. ADDITIONAL REQUIRED DOCUMENTATION:** If selected, the Respondent will be required to submit the following forms to complete a contract:

- Commonwealth Standard Contract Form, filled out and signed by the Respondent
- Commonwealth Scope and Budget Form
- Contractor Authorized Signatory Listing

- PARC Project Agreement

Respondents are encouraged to review the Commonwealth Standard Contract Form, Commonwealth Scope and Budget Form, and Contractor Authorized Signatory Listing prior to submission of a Response. They are available under the Forms and Terms tab of this Comm-PASS posting, as well as <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>.

#### **D. APPLICATION STEPS AND PROCEDURES:**

1. **Fill out application:** Municipality (the “Participant”) downloads a Parkland Acquisitions and Renovations for Communities Application Package from the Division of Conservation Services’ website at [www.mass.gov/eea/dcs-grants](http://www.mass.gov/eea/dcs-grants) before purchasing land, for an acquisition project, or before design and/or construction for which reimbursement will be sought begins, for a renovation or development project. It is strongly recommended that the Participant attend a “how to” Grant Workshop on May 14, 2013 at 10:00 am in Boston at 100 Cambridge Street, 2<sup>nd</sup> Floor conference room A or May 16, 2013 at 11:00 am in Amherst at 101 University Drive, Suite C4.
2. **Apply:** Participant files one original and two copies of the complete application, clearly marking the original. No electronic filings will be accepted. Projects involving renovations on the same theme in multiple parks, such as resurfacing playgrounds, may be packaged into one application. Unrelated projects by the same applicant must be submitted as individual applications.
3. **Municipal vote:** Participants must submit a draft warrant article or Council order to the Division for review before Town Meeting or City Council vote (submission of vote may occur prior to grant application deadline if vote will occur prior to that date). Municipal counsel should be consulted in drafting the warrant article, order of taking, or city council order. A municipality may vote to borrow funds in anticipation of state reimbursement prior to receiving agreement for reimbursement (M.G.L. Chapter 44, §8C). The draft municipal vote must cite the particular parcel to be acquired or developed/renovated and contain authorization to seek funding and to enter into any contracts for the project; dedicate the site for park purposes as under M.G.L. Chapter 45, Section 3 or 14 (whichever is deemed to be more appropriate, not both); appropriate the **total project cost**; as well as permit the conveyance of a conservation restriction if a CR is applicable to the project. See Attachment D for sample vote language.
4. Participant will be contacted by DCS to schedule a **site inspection**.
5. **Scoring:** Projects evaluated using applicable PARC evaluation criteria. Preliminary merit point rating assigned by Division of Conservation Services. See Attachment B for rating system.
6. Draft recommendations are subject to further review, including by EEA senior management and by the Secretary of EEA, prior to final approval.
7. **Awards announced:** Project approval letter, PARC Project Agreement, State Standard Contract, Contractor Authorized Signatory Listing, and billing forms for approved projects are sent to Participant by DCS. State funds are then obligated by the Commonwealth upon execution of contract documents for approved projects. Applicant must attend Grants Management Workshop.
8. **Municipal funding secured:**
  - a. If not already completed, the municipality votes to appropriate, expend from available funds, or borrow **an amount equal to the total project cost** stated in the application. A municipality may vote to borrow funds in anticipation of state reimbursement prior to receiving agreement for

reimbursement (M.G.L. Chapter 44, §8C), but the borrowing cannot actually take place until final state approval has been received. The municipal vote for the total project cost may take place prior to Step 1 in the application process, but the municipality must ensure proper compliance with the PARC application procedures by having the vote reviewed by DCS staff. Approval may be withdrawn if municipality's vote fails or if municipality exhibits lack of progress in obtaining this vote or in meeting time schedules established as part of approval conditions.

- b. For further information on borrowing situations, please refer to M.G.L. c. 132A, § 11. Exclusive of borrowing situations, and if the community wishes, reimbursements may be re-appropriated back into the participant's Conservation Fund or dedicated fund. Said authorization may be voted in the original article or submitted in subsequent Town Meeting or City Council votes; otherwise, reimbursements must be deposited into the General Fund as per Massachusetts General Law. Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, should consult with the Department of Revenue, Division of Local Services for guidelines.
9. **Permits and construction documents:** Participant files all required permits, final construction plans, and specifications for park development projects for DCS approval. EEA reserves the right to alter or rescind an award based on permit findings and construction plans and specifications.
10. **State Procurement Law:** Acquisition projects must adhere to the state's procurement laws, M.G.L. Chapter 30B. Work with your municipal procurement officer to ensure that your project conforms to the procurement law that will include advertising in the Central Register 30 days prior to closing. State procurement law also prohibits EEA from reimbursing for any costs, including design, incurred prior to the starting date on the state standard contract. Do not incur any costs for which you plan to submit a reimbursement request until you have a fully executed state standard contract.
11. **Begin project:** Participant makes land purchase or begins park development *only after* having received an affirmative Town Meeting or City Council Vote, and an executed state standard contract from EEA.
12. **Finalize required documentation for final reimbursement request:** Along with receiving final approval on Participant's Open Space and Recreation Plan (if applicable), communities that have passed the Community Preservation Act must have all conservation restrictions required by Section 12 of Chapter 44B approved by the Secretary of Energy and Environmental Affairs and recorded.
13. **File reimbursement billing form:** Participant files billing forms with the Division, along with required documentation. Partial payments may be requested. A PARC acknowledgement sign must be in place at the main access point before final payment will be made. Billing form and documents must be reviewed by the Division for any changes from the project application. An amendment to the project agreement will be executed and returned for signing and recording by the Participant if the project has changed. (A final inspection of the project is conducted prior to final payment.)
14. DCS prepares invoice and submits for payment to EEA's fiscal staff.
15. **Reimbursement payment:** Participant receives reimbursement, via electronic transfer.
16. **Post completion requirements:** Participants should review DCS Post Completion requirements regarding fees, user limitations, and prohibitions against converting the parkland to any other use or transfer of ownership.



## 4. Deadlines and Procurement Calendar

**A. RELEASE OF RFR:** March 28, 2013

**B. INFORMATION SESSION:** Two information sessions and “how-to” grant workshops will be held. The first will be on Tuesday, May 14, 2013 at 10:00 am in the 2<sup>nd</sup> floor conference room A at 100 Cambridge Street, Boston. The second will be on Thursday, May 16, 2013 at 11:00 am in Amherst at 101 University Drive, Suite C4. The workshop presentation and answers to any questions received in writing by Wednesday, July 3, 2013 will be posted on the DCS website. While not required, it is strongly recommended that applicants attend the workshop. Please RSVP at (617) 626-1171 or [melissa.cryan@state.ma.us](mailto:melissa.cryan@state.ma.us).

**C. APPLICATION DUE DATE:** Wednesday, July 17, 2013 at 3:00 pm.

**D. SUPPORT LETTER DUE DATE:** Postmarked by Wednesday, July 24, 2013.

**E. ESTIMATED AWARD DATE:** Awards are estimated to be announced on or about 100 days after grant application deadline, with contract negotiations to begin immediately thereafter. Please note this is an estimated timeframe, subject to change based on availability of funds and other factors.

**F. ESTIMATED CONTRACT START DATE:** Notwithstanding any verbal representations by the parties, or an earlier start date listed in the Standard Contract Form, and only after an award is issued and a final scope of services has been negotiated, the effective start date of a contract shall be the latest of the following dates: the date the Standard Contract Form has been executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the Standard Contract Form. The estimated start date for contracts resulting from this RFR is December 18, 2013, subject to change as noted above.

## 5. Miscellaneous

**A. TYPE OF PROCUREMENT:** Grant

**B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS:** This RFR is a single department procurement. All contracts awarded under this RFR will be utilized solely by EEA.

**C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS:** This RFR will result in multiple contracts.

**D. RFR DISTRIBUTION METHOD:** This RFR has been distributed electronically using the Comm-PASS system. It is the responsibility of every Applicant to check Comm-PASS for any addenda or modifications to an RFR to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended RFRs and submit inadequate or incorrect responses. Potential Respondents are advised to check the “last change” field on the summary page of RFRs for which they intend to submit a response to ensure they have the most recent RFR files. The application and answers to questions will also be posted on the DCS website at [www.mass.gov/eea/dcs-grants](http://www.mass.gov/eea/dcs-grants).

Respondents may not alter RFR language or any RFR component files. Those submitting a proposal must respond in accordance to the RFR directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited. Any unauthorized alterations will disqualify response.



**E. LIST OF ATTACHMENTS:**

- A. Application Form
- B. Parkland Acquisitions and Renovations for Communities Project Selection System
- C. Regional and Statewide Usage Report
- D. Sample Municipal Vote
- E. Sample Budget
- F. Sample USGS Locus Map
- G. Appraisal Report Guidelines
- H. Program Regulations

**The EEA Supplemental Terms and Conditions can be found online at**

**<http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>**

The EEA Supplemental Terms and Conditions are found under the Forms and Terms tab of this Comm-PASS posting.

**Parkland Acquisitions and Renovations for Communities (PARC) Grant Program  
Application Form FY 2014**

*Please do not reformat this form – use the fillable pdf form*

*Please print double-sided*

*Please fasten application package with a binder clip, no three-ring or plastic binders!*

---

1. **Municipality:** \_\_\_\_\_  
**Population (2010 U.S. Census):** \_\_\_\_\_

2. **Project Name:** \_\_\_\_\_

Type of Project:

☐ Acquisition – acreage \_\_\_\_\_ ☐ New development ☐ Renovation of existing park

Project address: \_\_\_\_\_

Project acreage: \_\_\_\_\_

3. **Contact Person:** \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Zip \_\_\_\_\_

Telephone (\_\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**Please note: the contact person is the official representative for this project as authorized under item #16(b) of this application, usually not the chief municipal officer.**

4. **Briefly describe the project on TWO attached pages.** Use the PARC Rating System as an outline for the description, as well as the items bulleted below, to ensure the maximum score possible for your project.

a.) Acquisition Projects:

- site location – in an Environmental Justice neighborhood and/or site's distance to the nearest park
- rare species (include letter from NHESP) (to determine if NHESP must approve site plans)
- historic or archaeological resource (include letter from MHC) (to determine if MHC must approve site plans)

b.) Development or Renovation Projects:

- describe facilities being developed
- describe community needs, including park equity/need in this neighborhood
- new acres dedicated as parkland
- brownfield projects must submit 21E evaluation and, at the minimum the Executive Summary of a Phase II Comprehensive Site Assessment under state cleanup regulations (Massachusetts Contingency Plan), or a Response Action Outcome statement for each Response Tracking Number – communities must be aware of the level of cleanup required at site prior to grant award so that project can be completed within contract period

c.) All Projects:

- non-vehicular accessibility of the site (bike paths, public transit, etc. – show on map)
- water-based recreation (include linear footage of bordering water resource)
- cooperation of any other governmental agency (state, federal, county), private nonprofit, local business, etc. fiscal or for future maintenance
- located in a Environmental Justice neighborhood or area of the community that lacks park resources (show on map)
- consistency with any nearby State Priority Development or Preservation Areas as shown on the South Coast Rail Corridor Plan or the 495/MetroWest Development Plan or any others that are completed
- description of enhanced public outreach in Environmental Justice neighborhood
- environmental education/interpretive services planned for site
- vegetation plan for site – number of trees that will be planted at the park

- regional or statewide facility (communities applying in these categories should submit a Usage Report)
  - accessible via public transportation (within a 1/2-mile walk)
  - parking for 100 (or more) vehicles
  - provides adequate comfort stations and potable water outlets
  - serves all age groups

## 5. Proposed Funding:

The PARC program is a **reimbursement** program. Grant recipients are reimbursed after invoices have been paid. **The total project cost must be raised or appropriated by the municipality shortly after project approval if it has not already been appropriated.** Costs incurred prior to grant approval and contract execution are ineligible, **including design costs.** Force account labor, volunteer hours, and donations are also ineligible. Refer to PARC regulations (Section 5.07) for eligible cost details. Sample budget can be found in Attachment E.

Total Eligible Project Cost: \_\_\_\_\_

PARC Request: \_\_\_\_\_

(52-70% of total project cost based on Equalized Valuation Per Capita, can be found on DCS web page, maximum of \$400,000)

Municipal Share: \_\_\_\_\_

(Community Development Block Grant via federal or local government sources, Community Preservation Act, etc., please specify in narrative)

Other: \_\_\_\_\_

(i.e. private donation to community, fund raising, etc. Note that any donations for the project must be put into a municipal account earmarked for the project as EEA can only reimburse on a canceled municipal check.)

(PARC Request + Municipal Share + Other = Total Eligible Project Cost)

## Attach a one page description of the proposed project budget including (:

- The source of all local funding including donations and Community Preservation Act (CPA) funds.
- Description of the details of any donation, if applicable (be sure these funds are gifted to the community and earmarked for the project).
- Description of any other sources of funding including federal, state, municipal, or nonprofit organizations. List these partners and describe their contribution. Not all sources of state and federal funds are compatible with every DCS grant program.
- Budget should be broken into two distinct fiscal years for renovation and development projects – FY 14 costs associated with design, FY 15 costs associated with construction. Please note that PARC grants cannot reimburse municipalities for design costs only.

**6. Project Type:** Please indicate type of project, refer to the program's regulations for definitions (Sec 5:03) and to the list of required attachments found at the end of this application form to substantiate any "yes" answers. Indicate here whether:

☐ Your municipality is an urban population center (city of any size or town with 35,000 or more residents)

☐ Your project qualifies as a regional or statewide project (town with 35,000 or less residents whose proposed project has public transportation access and/or over 100 car parking) (submit a Usage Report)

☐ Your project qualifies as a "small town" project (town with 35,000 or less residents)

☐ Your municipality is on Cape Cod or the Islands (eligible for \$400,000 grant award maximum)

## 7. Green Communities

Has your community been designated a Green Community by the Executive Office of Energy and Environmental Affairs?

☐ Yes

☐ No

For more information on the Green Communities program, visit <http://www.mass.gov/eea/energy-utilities-clean-tech/green-communities/>.

## 8. Community Preservation Act

Has your community passed the Community Preservation Act?

☐ Yes

☐ No

If “yes”, please note that successful grant applicants that have purchased real property interests for open space or recreational purposes using money from the Community Preservation Fund must have all conservation restrictions required by Section 12 of Chapter 44B approved by the Secretary of Energy and Environmental Affairs and recorded prior to receipt of final project reimbursement from the Executive Office of Energy and Environmental Affairs (for file records only).

9. Describe **outstanding leases, restrictions or other rights or interests** held by others in the project site and enclosed copy of the same (for file records only).

10. Is the property **permanently dedicated for park, playground, or recreation purposes** (MGL Chapter 45, Section 3 or 14)? If not, please submit draft dedication language for DCS review as all PARC projects must be dedicated for park, playground, or recreation purposes.

☐ Yes

☐ No

11. Are **fees currently charged or proposed** for this facility? If yes, please attach a copy of the fee system. Charging fees is allowed subject to DCS approval. If applicant is awarded a grant, the site cannot be restricted to municipal residents only. If fees are charged based on residency, fees for nonresidents are subject to Section 5.08(3) of the PARC regulations (for file records only).

☐ Yes (copy attached)

☐ No

## 12. Municipal Open Space and Recreation Plan

Describe how your project meets the recommendations in your current Open Space and Recreation Plan. To receive points in this category, you must cite specific goals, objectives, and/or actions from the Action Plan and the associated page number references. If we already have a copy of your plan, there is no need to submit another copy.

## 13. Statewide Comprehensive Outdoor Recreation Plan

Describe how your project advances the recommendations in the Statewide Comprehensive Outdoor Recreation Plan. It can be found online at <http://www.mass.gov/eea/docs/eea/dcs/fy13-gr/draft-scorp-2012.pdf>.

14. Check the following if applicable to project (for file records only):

- |                              |                             |   |
|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Prime agricultural lands (see Ex. Order #193)   |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Cultural, historic, archeological site: Contact MA Historical Commission (617) 727-8470 |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Endangered species habitat: Contact MA Natural Heritage Program (508) 389-6300          |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Environmental intrusion, i.e. overhead power lines (must be buried), safety hazards     |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Brownfield – 21E evaluation   |

☐ Yes ☐ No Located in the State Priority Preservation Area as shown on the South Coast Rail Corridor Plan or the 495/MetroWest Development Compact Plan or any other plan that is released  
☐ Yes ☐ No Environmental Justice community/neighborhood (see EJ data viewer at [http://maps.massgis.state.ma.us/map\\_ol/ej.php](http://maps.massgis.state.ma.us/map_ol/ej.php))

Acquisition projects only

☐ Yes ☐ No Acquisition involving relocation of residents, tenants, or businesses

For acquisitions,

Do you have a Purchase and Sales Agreement or Agreed Price?

☐ Yes ☐ No

If yes, Amount:

\$ \_\_\_\_\_

Is Clear Title available?

☐ Yes ☐ No

If no, is an eminent domain taking anticipated?

☐ Yes ☐ No

If yes, proposed pro tanto award amount:

\$ \_\_\_\_\_

Note that if clear title is not available, the community may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Appraisal Report #1

Valuation: \$ \_\_\_\_\_

Appraiser: \_\_\_\_\_

Valuation Date: \_\_\_\_\_

Review Appraisal Report #2 – if land valued at over \$750,000

Valuation: \$ \_\_\_\_\_

Appraiser: \_\_\_\_\_

Valuation Date: \_\_\_\_\_

15. Check if the following permits are required (for file records only):

- ☐ Yes ☐ No U.S. Army Corps of Engineers (404 or Rivers and Waterways)  
☐ Yes ☐ No MA DEP Division of Wetlands & Waterways (617) 292-5518  
☐ Yes ☐ No U.S. Coast Guard  
☐ Yes ☐ No U.S. Dept. of Agriculture (Zoos)  
☐ Yes ☐ No C. 131 s. 40 Wetlands (municipal conservation commission)  
☐ Yes ☐ No MEPA Review (301 CMR 11.00: MEPA Regulations) (617) 626-1020

**IMPORTANT NOTICE**

**If any of the above permits are required, the permit or application for the permit must be submitted. Should the project be selected for funding, the permit will be required as part of the final application.**

16. Attach certification of:

- a. The **Chief Executive Officer's legal authorization to execute contracts**. This is a resolution, motion, or similar action that has been duly adopted or passed as an official act of the community's governing body that authorizes the filing of the applications, including all understandings and assurances contained therein (this is not a DCS form to be completed); and
- b. Authorization from chief municipal officer identifying individual named on the first page of this application who acts as official of municipality in connection with the application and who will provide such additional information as may be required (See Urban Self-Help Regulations 5.04:(6)).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Chief Municipal Officer

\_\_\_\_\_  
Name and Title (Typed)

\_\_\_\_\_  
Duration of Term

Mailing Address: \_\_\_\_\_

Telephone: (     ) \_\_\_\_\_

## PLEASE LABEL ALL ATTACHMENTS

### **REQUIRED ATTACHMENTS** (applications that are missing these items will not be accepted)

- ☐ **Municipal Open Space and Recreation Plan**, if not already approved and on file at DCS. Plans are approved by DCS for up to seven years of eligibility in DCS grant programs. Community is not eligible to apply without an approved plan, or submission of a draft plan. (If we have it on file, do not send another copy.)
- ☐ **Acquisition Projects – Appraisal report(s)** as required by DCS. See Attachment G for more details.

### **RECOMMENDED ATTACHMENTS** (use as a checklist) (provides details to information requested and assists in project evaluation)

- ☐ **Project Description** (application item #4) and **Budget Details** (application item #5), including a breakdown of how much is needed for design costs in FY 14 and construction costs in FY 15. Please note that funds not used in FY 14 do not roll over into FY 15. A sample budget can be found in Attachment E.
- ☐ **Development & Renovation Projects – Site Development Plans and Cost Estimates.** Services of a professional design firm are recommended for renovation and development projects. Costs incurred prior to the signing of a state standard contract are NOT eligible for reimbursement. Site Development Plans and Cost Estimates should show the number of trees that will be planted at the site.
- ☐ **Boundary Plan of Site** (Survey or Plot Plan with adequate metes and boundary descriptions). The boundary plan submitted with the project application becomes the permanent protected boundary for the site and must be legally sufficient to identify the land to be protected. A registered survey plan with deed references or assessor's map with block and lot number are acceptable.
- ☐ **USGS Locus Map** showing outline of project site, proximate Priority Development and Preservation Areas as shown on the South Coast Rail Corridor Plan or the 495/MetroWest Development Compact Plan or any other plan that is completed, any adjacent or nearby public or quasi-public parkland, nearby public transportation route(s), bike paths, and EJ populations in project site area. See Attachment F for a sample.
- ☐ **Evidence of public meeting on proposed project in EJ neighborhood(s)** (copy of actual newspaper ad or actual posted announcement). Post notices with tenants associations, in local grocery stores, or with Community Development Corporations in languages that are appropriate for the neighborhood. Please look at EEA's Environmental Justice Policy online at <http://www.mass.gov/eea/grants-and-tech-assistance/environmental-justice-policy.html> to ensure proper outreach procedures in EJ neighborhoods.
- ☐ **Usage Report** only if your project is Regional or Statewide (Attachment C).
- ☐ Certified copies of the following **municipal votes** (or draft warrant article or city council order, as necessary). Refer to the Sample Municipal Vote, which is included in the application package, for guidance. **PARC grant manager MUST review municipal vote prior to Town Meeting or City Council Meeting.**
  - ☐ Copy of municipal vote accepting the Park Commission (M.G.L. c.45 s.2) **AND** its current appointments.
  - ☐ Municipal vote authorizing application; raising, borrowing or appropriating the total project cost (application item #5); and dedicating land to park, playground, or recreation purposes (application item #9).
- ☐ Copy of property **deed** confirming municipal ownership and dedication to park, playground, or recreation purposes.
- ☐ **21 E Evaluation** only if your project is a former brownfields site.
- ☐ Executive Summary of the **Phase II Comprehensive Site Assessment** under state cleanup regulations (Massachusetts Contingency Plan) or **Release tracking numbers** and **Response Action Outcome Statement** for each RTN only if your project is a former brownfields site.
- ☐ **Green Communities** – please include evidence of the community's designation as a Green Community.
- ☐ **Other State Agency Review** – if it is not possible to include their response in the application package to DCS, attach a copy of your cover letter requesting their input.
  - ☐ All applicants must request comments from the Massachusetts Natural Heritage & Endangered Species Program (NHESP) on the presence or absence of rare species listed under the Massachusetts Endangered Species Act (MESA) on or near the proposed land acquisition or park project. To request comments, please send a letter or email to Lynn Harper, Habitat Protection Specialist, Natural Heritage & Endangered Species Program, DFW, 100 Hartwell St, Suite 230, West Boylston, MA 01583, or to [Lynn.Harper@state.ma.us](mailto:Lynn.Harper@state.ma.us). The letter or email should include a brief description of the acquisition or project, and a map of the acquisition or project location. There is no charge for this comment letter.



- ☐ Massachusetts Historical Commission: Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. Send this certified mail, return receipt requested, so that you know when it was received. MHC will review and comment to DCS (and copy the applicant) within 30 days of receipt. There is no need to telephone or email the MHC. See these webpages for any questions: <http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.

**ATTACH SUPPLEMENTARY DOCUMENTS IF APPLICABLE TO THE PROJECT**

- ☐ Copies of current leases, restrictions, or other rights or interests held by others in the property.
- ☐ Fee schedule.
- ☐ Any necessary permits or applications for permits.
- ☐ Evidence of recorded Conservation Restriction(s) as required in Section 12 of Chapter 44B if applicant is a Community Preservation Act community.

**Section 12 of the Chapter 44B Real property interest; deed restriction; management**

(a) A real property interest that is acquired with monies from the Community Preservation Fund shall be bound by a permanent restriction, recorded as a separate instrument, that meets the requirements of sections 31 to 33, inclusive, of chapter 184 limiting the use of the interest to the purpose for which it was acquired. The permanent restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The permanent restriction may also run to the benefit of a nonprofit organization, charitable corporation or foundation selected by the city or town with the right to enforce the restriction. The legislative body may appropriate monies from the Community Preservation Fund to pay a non-profit organization created pursuant to chapter 180 to hold, monitor and enforce the deed restriction on the property.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.

## **PARKLAND ACQUISITIONS AND RENOVATIONS FOR COMMUNITIES (PARC) GRANT PROGRAM SELECTION SYSTEM**

In order to distribute limited grant funds among an overwhelming number of applicants, a project selection system has been developed for outdoor recreation projects. The rating system considers demographic, social, environmental, and project quality factors in order to identify those projects that best protect natural resources in communities that have the greatest need for financial assistance and that have made efforts to implement their open space and recreation plans in coordination with local planning for sustainable growth.

In reviewing applications and developing their recommendations to the Secretary of Energy and Environmental Affairs the review team considers:

### **1. Demographics**

Three categories are evaluated by DCS to calculate a community's demographic score. Communities with higher population density, lower median income, and higher percentage of households below poverty level receive higher demographic scores. **(Scores are calculated by DCS; therefore, there is no need to submit any statistics or narrative on your community's behalf.)**

### **2. Community Profile Score**

- Environmental Justice Community – calculated by EEA
- Green Community

### **3. Project Quality**

- Consistency with EEA policies, including water-based recreation, brownfields redevelopment, public transit access.
- Addition of new parkland by acquisition, rededication, or renovation of unusable parkland.
- New parks in park-poor areas of the community.
- Enhanced outreach in Environmental Justice neighborhoods.
- Partnerships – Projects that involve financial contribution from more than one municipality, or from a nonprofit or for-profit organization, will be given higher consideration. These include projects that obtain a commitment from an organization for help with paying for or performing future maintenance.
- Consistency with Executive Order 525.

## **SELECTION NOTES:**

### **Preservation of Agricultural Land**

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Project that would convert any prime agricultural lands should consult with the Department Agricultural Resources at (617) 626-1700 prior to submitting an application.

## RATING SYSTEM for PARC Projects

CATEGORY	SUB-CATEGORY	Description	Partial Points	Max
<b>DEMOGRAPHICS</b>	Population Density	Figures are obtained from MISER and put into rank order by DCS	1-6	7
	Median Income	Figures are obtained from MISER and put into rank order by DCS	1-6	7
	Percentage of Households below Poverty Level	Figures are obtained from MISER and put into rank order by DCS	1-6	7
	Educational Attainment	Percentage of the city or town's population having attained a bachelor's degree or higher below the state's average		6
<b>COMMUNITY PROFILE SCORE</b>	Environmental Justice Community	Calculated by EEA	1-7	8
	Green Community	Communities that have been designated a Green Community will receive 5 points		5
<b>PROJECT QUALITY</b>	Consistency with current EEA policies	Project located in Environmental Justice neighborhood and will act to stabilize community	1-5	6
		Conversion of brownfields to "greenfields"		5
		Project that expands municipality's park and outdoor recreational facilities through acquisition or development of a new park that will promote community-wide park equity or renovates existing park that is currently unusable	3	10
	Green Infrastructure	Project is accessible by non-vehicular transportation method, such as public transit, bike path, well-marked sidewalks, etc.	1-3	4
		Acquisition, development, or renovation project that protects or enhances water-based recreation	2	4
		Project will add significantly to the park's tree cover		3
	Public Meeting	Municipality has conducted a public meeting on project with demonstrated enhanced outreach in Environmental Justice neighborhoods	1	3
	Cooperative Project	Joint cooperative project between applicant and other municipality or non-profit organization involving funding and/or commitment for future park maintenance	2	4
	Outdoor Classroom	Site offers interpretive services and/or environmental education	1	3
	Consistency with plans	Points awarded based on how many goals, objectives, or action plan items from community's Open Space and Recreation Plan are advanced	1-2	3
		Points awarded based on how many action items from the Statewide Comprehensive Outdoor Recreation Plan are advanced	1-3	4
	Distribution of state resources	Applicant has not received a PARC grant in the past five grant rounds		4
	Overall project quality	Overall ability of project to meet Secretary's priorities	1-6	7
<b>TOTAL</b>				100

**PARC REGIONAL AND STATEWIDE USAGE REPORT**

(to be filled out only by communities checking the regional or statewide box in Question 6)

Project Name \_\_\_\_\_

- 1. What is the population of the applying municipality?
- 2. What urban area(s) is/are within a one-hour driving radius?
- 3. What is the proposed total quantity of vehicle parking spaces?
- 4. If regularly scheduled public transportation serves the site, briefly describe mode and regularity of services. Please attach schedule.

5. List the proposed quantities of the following facilities to be present.

Toilets                men \_\_\_\_\_                women \_\_\_\_\_  
Sinks \_\_\_\_\_  
Potable Water Outlets (i.e. bubblers) \_\_\_\_\_

6. Total number of acres associated with project site:

7. What age groups are served by the proposed project? List facilities (either currently available or planned) to serve these age groups.

Age Group	Facilities
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

8. List any outstanding or unusual scenic, natural, or historic resources associated with the site, (i.e. overlook, waterfalls, historic structures, cultural resources)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. List any additional facilities or recreational resources not included in item above (either currently available or planned):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### SAMPLE PARC MUNICIPAL VOTE

Each community should draft its warrant article or city council order with the guidance of municipal counsel. The form will vary with the type of project, source of funding, etc. All should include the following elements:

- I. Authorization to expend an amount equal to the full acquisition and/or development or renovation cost of the project. All DCS grant programs are **reimbursement** programs, **NOT** match programs; therefore, the total project cost must be raised or appropriated through current tax levy or borrowed; project bills paid by the municipality and then a reimbursement request is made to DCS for the grant amount.
- II. Indication of the source of funding (Conservation Fund, Community Preservation Act Fund, general fund, borrowing, etc.). M.G.L. Chapter 44, sections 7, 8C, and 12(a) on Municipal Indebtedness, allows cities and towns to borrow in anticipation of reimbursement. It is strongly recommended that the warrant article or city council order is prepared with the advice of city/town counsel, treasurer, and accountant to ensure that the appropriate section is noted in the warrant article. These sections permit the municipality to borrow in anticipation of a grant and require that a grant agreement be executed before the treasurer actually obtains the borrowed amount. This assures DCS that the municipality has 100% of the total project cost, and assures the municipality that the project need not be completed if the proposal does not receive grant assistance. For further advice, please contact the Department of Revenue, Division of Local Services at (617) 626-2454.
- III. Acquisition projects: indicate that land is being acquired for active recreation purposes (M.G.L. Chapter 45, Section 3 or 14, not both) and will be in the care and control of the recreation commission or department (or other entity in the community that is responsible for parks).
- IV. Development or renovation projects: state that the land is dedicated to active recreation purposes (M.G.L. Chapter 45, Section 3 or 14, not both)
- V. Authorization for the applying entity to seek reimbursement under the specific DCS grant and enter any necessary contracts thereto.  
*PARC (formerly Urban Self-Help) Act: 301 CMR 5.00*
- VI. If a taking is involved in an acquisition project, the recreation commission must, in writing, request the selectmen or city council to take the property via eminent domain.
- VII. Communities may also consider language permitting a lease or license agreement to manage the property consistent with the PARC grant program for maintenance, etc.

The following is a sample vote authorizing the acquisition of recreation land. This is intended only as a point of reference. **Municipal Counsel should always be consulted when drafting Town Meeting warrant articles or City Council orders.** The draft article or order must be submitted to DCS for review prior to the Town Meeting or City Council vote

#### Sample for PARC Acquisition Project – Town Meeting Warrant Article/City Council Resolution

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 45, Section 14, and as it may hereafter be amended and other Massachusetts statutes relating to recreation, to be managed and controlled by the Recreation Commission of MUNICIPALITY, and the Recreation Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Urban Self-Help Act (301 CMR 5.00) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Recreation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

**Sample for PARC Park Development Project – City Council Resolution**  
(For purposes of this example, the park project will be a City Common.)

A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM THE COMMONWEALTH OF  
MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS FOR THE PARKLAND  
ACQUISITIONS AND RENOVATIONS FOR COMMUNITIES PROGRAM FOR IMPROVEMENTS TO THE COMMON

- Whereas: The City Common is by and far a community-wide asset and the preservation and improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan; and
- Whereas: The City Common is dedicated to park and recreation purposes under M.G.L. Chapter 45, Section 14; and
- Whereas: The City Common's ultimate restoration, guided in principal by the Master Plan, will greatly enhance this facility with improved infrastructure, path systems, site lighting universal access, etc.; and
- Whereas: The main focus of the Plan is to increase the available space on the Common to adequately host major events and activities. This overall cost and fiscal budget constraints prevented the City from proceeding forward with implementation as one project; and
- Whereas: The project was instead viewed as a series of phases, to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and
- Whereas: The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Parkland Acquisitions and Renovations for Communities grant program (301 CMR 5.00); and
- Whereas: Phase I of the Common Restoration Project will cost a total of \$1,000,000 (One Million Dollars) and the City has allocated \$1,000,000 in Community Development Block Grant funds for Phase I of the Common Restoration Project.

**NOW, THEREFORE, BE IT**

1. That the City Manager be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the City Manager be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage.

**Requirements for acquisition projects funded through the  
Community Preservation Act (CPA)**

The Community Preservation Act (CPA) states that land acquired with these funds is to be bound by a permanent restriction. Property acquired with the help of the PARC grant program is protected Article 97, however, this does not supersede the requirements of the Community Preservation Act. The permanent restriction may also run to the benefit of a nonprofit organization, charitable corporation or foundation selected by the city or town with the right to enforce the restriction. It may not be an internal deed restriction. Fulfillment of the CPA is the responsibility of the municipality; while it is desirable that all transactions related to a project be completed by the end of the fiscal year, conveyance of a CR to a qualified entity is not a requirement for reimbursement under this grant program.

Conveying a conservation restriction over “parkland” normally would trigger the formal “Article 97” disposition process requiring a 2/3 vote of the legislature. However, for guidance, EEA refers municipalities to the opinion of the Massachusetts Land Trust Coalition Attorney Referral Panel that states: “If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a “disposition” of an interest in the property within the meaning of Article 97.”<sup>[1]</sup> All municipalities should seek final advice on this issue from its town counsel or its city solicitor.

**Points to remember when conveying a Conservation Restriction:**

1. At the same time that is votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.

---

<sup>[1]</sup> Attorney Greg Bialecki and the Attorney Referral Panel of the Massachusetts Land Trust Coalition – Visit the Massachusetts Land Trust Coalition website at [www.massland.org](http://www.massland.org), or <http://www.massland.org/pages/resources/legaladvisory3.html> for this legal advisory.

2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under M.G.L. Ch. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The “proceeds” clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

### **Sample Vote Language for Community Preservation Act Projects**

To see if the Town [or City] will vote to raise, borrow and/or appropriate \$Total Project Cost for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately \_\_\_ +/-acres owned by OWNER as described on Assessors Map \_\_\_, Parcel \_\_\_, to be managed and controlled by the Recreation Commission of the Town [or City] of XXX in accordance with Chapter 45, Section 3 [or 14] for active recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager [or Board of Selectmen or City Council or Mayor] be authorized to file on behalf of the Town [or City] of XXX any and all applications deemed necessary under the PARC Act (301 CMR 5.00) or any other applications for funds in any way connected with the scope of this acquisition, and the Town Manager and the Board of Selectmen [or Mayor and the City Council] and the Recreation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town [or City] of XXX to affect said purchase. Said conservation restriction may be granted to the [Name of Grantee] or any other organization qualified and willing to hold such a restriction.



**SAMPLE PARC BUDGET**

Example: A \$500,000 project in a community with a 70% reimbursement rate

Question 5 from application

Total Eligible Project Cost: \$500,000

PARC Request: \$350,000

(52-70% of total project cost based on Equalized Valuation Per Capita, can be found on DCS web page, maximum of \$400,000)

Municipal Share: \$100,000

(Community Development Block Grant, Community Preservation Act, etc., please specify in narrative)

Other: \$50,000

(i.e. private donation to community, fund raising, etc. that will be a part of the municipal share)

One page proposed budget narrative

<b>Project Element</b>	<b>Cost</b>
Design	\$50,000
<b>Design Subtotal</b>	<b>\$50,000</b>
Demolition/Site Preparation	\$40,000
Pulverize Existing Pavement	\$40,000
Earthwork (excavation and backfill)	\$30,000
New Pedestrian Pathways	\$105,000
Storm Drainage Improvements	\$20,000
Site Furnishings (benches, picnic tables)	\$30,000
Interpretive Signage	\$10,000
Electrical Services	\$70,000
Lawn Seeding/Turf Establishment	\$45,000
Tree Planting	\$35,000
Fencing and Rails	\$15,000
Construction Administration	\$10,000
<b>Construction Subtotal</b>	<b>\$450,000</b>
<b>Total Project Budget</b>	<b>\$500,000</b>

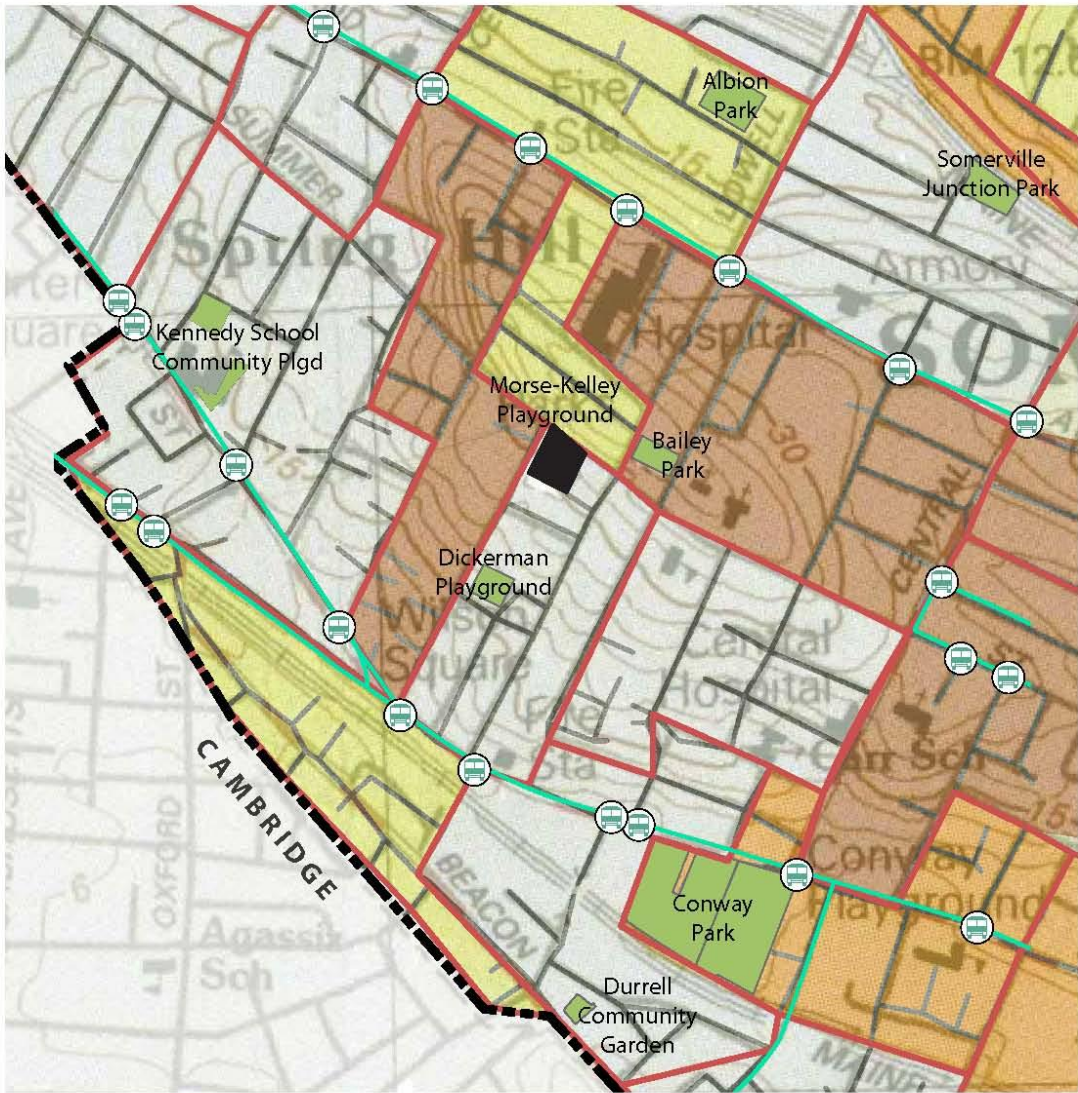
<b>FY 14 PARC Request</b>	<b>\$35,000</b> (\$50,000 × 70%)
<b>FY 15 PARC Request</b>	<b>\$315,000</b> (\$450,000 × 70%)

\$150,000 City Share Breakdown

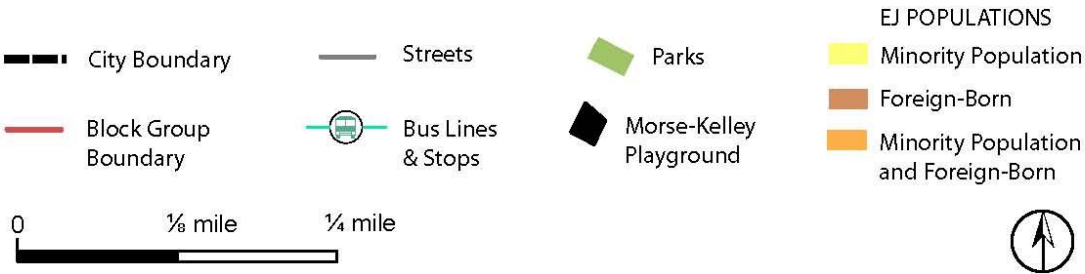
\$100,000 from Community Preservation Act Funds

\$50,000 donation from City Sports Leagues, Inc.

SAMPLE USGS TOPO MAP



Morse-Kelley Playground USGS Reference Map



## LAND and PARC PROGRAMS APPRAISAL REPORT GUIDELINES

If your project involves an acquisition, appraisal reports are absolutely critical to the success of your project. The subject property must be appraised in accordance with the Division's requirements by a qualified, independent and disinterested appraiser. Reports done for the owner, or paid for by the owner, cannot be used. The report(s) must be submitted along with the preliminary application by the grant round application deadline.

1. **Type of appraisal report required:** The following conditions determine the number and type of appraisals required.
  - a. For acquisitions with appraised values of \$750,000 or more, two appraisals by real estate appraisers certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, are required, of which one may be a review appraisal;
  - b. For acquisitions with appraised values of less than \$750,000 but more than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, is required; and
  - c. For acquisitions of less than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, or one contracted market analysis, or one contracted opinion of value is required, subject to the discretion of the Director of the Division of Conservation Services.

A full narrative appraisal is a comprehensive analysis, substantiated by documented market data, of the value of a property. Full appraisals must be bound, in book-fashion, in the left margin, in a durable cover with an identification of the property on the cover page. The paper must be a good grade bond of size 8 1/2"x 11". All pages must be numbered consecutively, including all exhibits, and each important heading must be shown in the Table of Contents. In short, this is not the brief estimate typically done by a lending institution when a home is refinanced.

2. **The Appraiser's Scope of Practice:** The appraiser must be licensed and/or certified by the Massachusetts Board of Registration of Real Estate Appraisers, and have the appropriate license or certification for the type of land that is appraised. Often the project will require a state certified general real estate appraiser. The following is an excerpt from the state regulations for the Board of Registration of Real Estate Appraisers.

264 CMR 6.01: Scopes of Practice

**(1) State-Licensed Real Estate Appraisers.** State-licensed real estate appraisers may appraise:

- a. non-complex one-to-four unit residential properties having a transaction value of less than one million dollars (\$1,000,000) and complex one-to-four unit residential properties having a transaction value of less than two-hundred fifty thousand dollars (\$250,000);
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential properties, and where the highest and best use is for one-to-four unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-licensed real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

**(2) State-Certified Residential Real Estate Appraisers.** State-certified residential real estate appraisers may appraise:

- a. residential properties with one-to-four units and complex one-to-four unit residential property both without regard to transaction value;
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential use and where the highest and best use is for one-to-four family unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-certified residential real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

**(3) State-Certified General Real Estate Appraisers.** State-certified general real estate appraisers may appraise all types of non-complex and complex real property both residential and non residential.

Regulatory Authority: 264 CMR 6.00: M.G.L. c. 13, s. 92; M.G.L. c. 112, §. 173-195.

3. **Federally funded LWCF acquisition projects:** Projects selected for federal assistance under the Land and Water Conservation Fund must also comply with the Uniform Appraisal Standards for Federal Land Acquisitions. These standards are available at [www.usdoj.gov/enrd/land-ack/yb2001.pdf](http://www.usdoj.gov/enrd/land-ack/yb2001.pdf). Critical differences for federal appraisal standards

include: a.) determination of the “larger parcel”, applicable when only part of the property is acquired; b.) Highest and Best Use definition; c.) Market Value definition; and d.) limiting the use of the development approach for valuation. *Where the federal standards differ from the following requirements, the federal standards will prevail.*

4. **Using federal grant assistance for land acquisition** – Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646). The Municipality (the Buyer), must offer the owner the opportunity to accompany the appraiser, must offer the owner a written statement of just compensation based on the approved appraised value, and must pay the closing costs.
5. **Common comparable sales problems:** Reports usually contain comparable sales and the examples offered should be just that: comparable. The locations should be similar, preferably the same town. If they are not, the narrative must explain why that particular sale is still comparable. The highest and best use and market situations of the comparable sale should be the same as the subject property. These sales must also represent arms length transactions – generally municipal transactions are not arms length.
6. **Common valuation problems:** The highest and best use must reflect a market situation, and typically "open space" or "conservation" is not a marketable situation. If the subject property cannot support development, perhaps it would be attractive to abutters who wish to add to their own holding (assembly), or the property may have some timber value, or if the property is part of a larger parcel, a before and after value is warranted. Any restrictions placed in the deed by the grantor (seller) can possibly lower the value of the property.
7. **Complicated circumstances:** Appraisals must be analytical narrative reports following current professional appraisal standards. All components of the report such as introductory and supporting data, valuation analysis, limiting conditions, and certifications must meet these standards. If necessary, the Division of Conservation Services will furnish supplementary specifications which delineate additional required data in the appraisal of highly specialized properties or properties to be acquired under unusual circumstances.
8. **Eminent domain taking:** The municipality must notify the appraiser if an eminent domain taking is contemplated or a possibility. All grant program participants must provide for fair and equitable treatment of persons and businesses to be displaced as a result of the acquisition. Participants must abide by the requirements of M.G.L. c. 79A or c. 80A (both pertain to eminent domain takings), as amended.
9. **Review appraisal:** When, in the opinion of the Director, the value of the property remains in doubt, further appraisals may be required to reach a value conclusion. The resolution of value may be accomplished through the performance of entirely new appraisals or through the engagement of an appraiser as qualified above for the purpose of reviewing existing appraisal reports and certifying a final value conclusion.
10. **Reports must be submitted by the grant round deadline.** However, if DCS requires report corrections, revisions, or review appraisals; they may be submitted after the deadline.
11. **Reports must be written for the applicant municipality.** Appraisals must include the municipality as a client, and cannot be paid for, or obtained by, the owner.
12. **Special Note for appraisals submitted as part of a conversion proposal.** These Reports must value the converted property under a hypothetical situation: *as if the property were developable, unencumbered by any conservation or recreation restrictions.*

### **Sources And References**

These appraisal specifications are based on material from the following sources:

1. EOEALand Acquisition Policy – Appraisals dated September 1, 1995.
2. Uniform Standards of Professional Appraisal Practice

## APPRAISAL REPORT REQUIREMENTS

### I. INTRODUCTION

- A. Title Page: Each Appraisal Report must include: (a) the name of the Municipality (client) for which the Report was prepared, (b) the name and street address of the property, (c) land area of the property (d) the name and street address of the owner(s), (e) the name of the individual making the report, and (f) the effective date of the appraisal.
- B. Table of Contents – List all essential items in the report.
- C. Certificate of Value – See Exhibit I.
- D. Summary of Important Facts and Conclusions
- E. Photographs
- F. Statement of Limiting Conditions and Assumptions: Each Appraisal report should set forth the limiting conditions and assumptions made by the Appraiser in preparing the report. If there is a discrepancy in description, acreage, frontage, or other factual data, the Report should note which description, amount or measurement is being used in calculating the final value.

### II. FACTUAL DATA

- A. Purpose of Appraisal: Include a statement of the reasons for the appraisal, a definition of the appraisal problem and a description of the property rights being appraised.
- B. Legal Description and Title
- C. Area, City and Neighborhood Data: Include the area, city and neighborhood data, including area or location maps (such as the United State Geologic Survey topographic map) and indicate the location of the subject property. Include a general description of the city or town, the section of the community, and the actual area surrounding the property. This section should also include a discussion of the town's or city's attitude toward development, and upon what information any conclusions are based; whether the town or city has a Master Plan; the population trends in the community, and reasons for such trends. This data should be kept to a minimum and related to the valuation problem at hand.
  1. Favorable and Unfavorable Factors: List and discuss favorable and unfavorable factors affecting the property, such as transportation, major industries, shopping centers and recreation areas. Any hazards or nuisances which affect the subject property, such as obnoxious facilities, smoke, smell, noise and traffic, should be thoroughly discussed. Indicate the factor's location and relationship to the property as well as its effect upon market value.
  2. Real Estate Market Conditions: Discussion of current real estate market conditions affecting the area, including supply and demand factors. Mention the specific type of property being appraised, along with future indicated trends and the extent to which those trends affect the value of the property. Also include data on the number of lot sales, and, if available, bona fide building permits issued in the past three to five years, and those pending, for the type of development or construction starts within that three to five year period.

### III. PROPERTY DATA: The data collected by the Appraiser should be as comprehensive as possible, and be acknowledged and related to the Appraiser's determination of Highest and Best Use and final value conclusions.

- A. Site - describe the property's location; current use(s); access (public or private road, paved or unpaved); adequacy of access for subdivision purposes; area; shape; extent of road frontage; buildings; presence and location or absence of utilities; topography; soils and sub-soil conditions; porosity of soils/adequacy of drainage; availability of town sewer (if none, whether soil will percolate); presence or availability of potable water, and whether current or proposed uses may cause contamination of sources of drinking water or wells on or near the property; merchantable forests; extent of water frontage; scenic views; wetlands or floodplain, aquifer recharge districts, or any other environmental constraints. Any history of the site, or physical characteristics, which might indicate its use for disposal or storage of known hazardous or potentially hazardous materials must be indicated. In the case of a partial acquisition, the report should similarly describe the remainder property, including any limitations or enhancement caused by the acquisition of the subject property. Describe any Massachusetts General Laws Chapter 61 (forest land), Chapter 61A (agricultural and horticultural land) and 61B (recreational land) encumbrances which have been placed on the property. Include the existence and extent of any easements, rights of way and/or other encumbrances (including conservation, agricultural, or other preservation restrictions or easements) which appear of record and/or on the ground. Investigate the likelihood of existence or non-existence of loam, peat moss, water, timber, gravel or mineral deposits on the subject property. If it is determined that such materials exist, determine whether there is a demand or market for the material(s). If so, indicate whether a permit to extract or remove these materials has been issued, or the likelihood of issuance or denial of a permit if applied for. If a permit is not necessary, or has been issued, or issuance would be likely, determine the enhancement value these materials bring to the subject property, if any, by

use of the comparable sales method. The presence, absence or value of such materials need not be investigated when the appraisal assignment is for a partial interest in the property which does not include rights to these materials.

- B. Site Conditions and Improvements - Include a description of site conditions and/or improvements by narrative or list form. Such conditions and improvements may include buildings or other structures, foundations, ruins, archeological sites, cemeteries, quarries, dams, and water or flood control devices. If measurable, include dimensions, and cubic or square foot measurements of such conditions and improvements. Where applicable to determination of highest and best use, determine the rentable areas on site (including a statement of the method of measurement used in determining rentable areas), and the fair market rental value of such areas. Also note evidence or likelihood of existence of hazardous materials or waste on the site. Where so noted, the Appraiser must immediately notify the Municipality.
- C. Equipment - Where the highest and best use of the subject property is for a special purpose (for example, as a downhill ski facility, golf course, or camp), include a description of equipment appurtenant to the appraised premises by narrative or list and include all items of equipment. The current physical condition and relative use and/or obsolescence should be stated for each item or group of equipment described, and a final value estimate of each item or group determined. When repair or replacement of the equipment is necessary to bring the equipment to a usable condition, an estimate of the costs for doing so should be provided. Any related personal equipment, such as tenant trade fixtures, which are not attached or considered part of the realty must be separately inventoried by the Municipality. Where applicable, these detachable or individually owned items must be separately valued by the Appraiser.
- D. History - State the history of the use or uses of the property. Include any evidence of prior use of the property for storage, use or disposal of hazardous wastes or materials. Where applicable, describe the purpose for which improvements were designed, dates of original construction and major renovations and/or additions. Show all transfers of the appraised property for the past ten (10) years, including sales; the sale price, if listed; leases; and, if known, offers to buy or sell. If there have been no transfers within the past ten (10) years, the Report should so state, and include a report of the last sale.
- E. Assessed Value and Annual Tax Load - Include the assessor's map and parcel number for the property, a copy of the assessor's map, and the current assessment and dollar amount of real estate taxes. Also include assessments for the five previous years and comment on consistency of assessments, practices and procedures. Assessments for land and structures should be listed separately. If the property is registered under Chapter 61, 61A or 61B, the report must include the full assessment and tax as well as the reduced assessment and tax. If the property is not taxed, estimate the assessment as if the property were subject to taxation, state the rate and give the dollar amount of the tax estimate.
- F. Insurance - If the Appraiser determines value by the income approach then the Appraisal Report should present the estimated rate per thousand and the annual cost of adequate insurance coverage (not necessarily present coverage).
- G. Public Land Use Controls: The Appraiser should make an exhaustive review of laws and regulations that affect the subject property and acknowledge and relate them to the Appraiser's final value conclusions.
  - a. Zoning - Include, as an exhibit or in the addenda, a copy of the applicable sections of the zoning regulations in effect as of the date value is certified, and the date on which the regulations became effective. Describe the zoning for the subject property and for comparable properties; and reveal whether the zoning regulations allow pork chop lots, cluster developments, condominiums, cooperatives or other alternative development approaches. Indicate whether limited development options would enhance value where, for example, higher lot values for buildable land result if non-buildable land is designated as permanent open space, or where a greater net value results from sales of oversized lots utilizing only existing street frontage. If the subject property is not zoned, state what the zoning would be under private ownership. If rezoning is imminent, the background and status of the matter should be described. Also indicate the likelihood of issuance of a variance or approval of a change in zoning where such a variance or change could affect the Highest and Best Use of the subject property. The Appraiser should not unduly speculate; any conclusion that a zoning change may occur or variance would be issued must be clearly supported and explained.
  - b. Subdivision Rules and Regulations - Where Highest and Best Use of the subject property is deemed to be a subdivision, relevant sections of the current local Subdivision Rules and Regulations must be cited, and copies provided (showing date on which they became effective) including: class of roads, width of rights of way, width of paved surfaces, slope limitations, dead-end road limitations, utilities requirements, sight-stopping distances, intersecting curve radii, and cul-de-sac radii.
  - c. Wetland Regulations - If the property is potentially subject to the jurisdiction of the United States Rivers and Harbors Act (33 USC Section 404); the Massachusetts Wetland Protection Act (MGL Chapter 131, Section 40); the Massachusetts Wetlands Restriction Act (MGL Chapter 130, Section 105); or a city or town wetlands

by-law, the areas within their jurisdiction and the activities regulated thereby must be discussed, and their impact on the valuation of the subject property determined.

- d. Flood Plain Regulations - If the subject property lies in any federal flood hazard district, a flood plain map must be included showing the relationship of the subject property to the district, and the impact on the valuation of the subject property.
- e. Water Resource or Aquifer Protection Districts - If the subject lies in a water resource or aquifer protection district, a map must be included showing the relationship of the subject property to the district, together with a description of the regulations and their impact on the value of the subject property.
- f. Other Overlay or Floating Zones - The Appraiser should investigate whether other overlay districts or protective zones have been created which may impact the subject property, and determine their effect upon its value.
- g. State Sanitary Code (title 5)/Board of Health Regulations If the Appraiser has reason to believe that all or part of the subject property is suitable for development and there is no municipal sewer available to the site, the Appraiser should investigate the local regulations concerning minimum standards for placement and capacity of septic systems, as well as the acceptable percolation rate. If percolation tests are not performed on the site, the Appraiser should submit soil survey maps of the site and identify the types of soils found. If soil maps are not available, or if the Appraiser has concluded the highest and best use of the subject does not include development, a report from a soil scientist is required to indicate (a) the types of soils found on the subject property, (b) whether the site is capable of supporting operational septic systems, and (c) limitations, if any, of the soil types found on the property. If sewer is available to the subject, or if the property may or must connect to sewer, the Appraiser should investigate and report whether new connections to the system are being accepted; whether any regulations or phasing in hook-ups control new connections; whether the town system has sufficient capacity, or sufficient capacity is planned or expected, and within what timeframe.

#### IV. ANALYSIS AND CONCLUSIONS

- A. Highest and Best Use: The Report must state the Highest and Best Use or combination of uses that can be made of the property (land and improvements) for which there is a current market. The analysis should include a discussion of other logical uses considered and the reasons why the property being appraised lends itself to the selected use. If the Highest and Best Use is different than the present use, the Appraiser should discuss how the property being appraised is available, suitable, adaptable and in demand for the new use. The valuation should be based upon the stated Highest and Best Use. If the Highest and Best Use is based on a zoning change, variance, special permit or subdivision plan approval, the Appraiser should have concluded that there is a substantial likelihood that the required zoning relief would be granted and the Appraiser should set forth the basis of that opinion in the Report. In the event of a partial acquisition or taking, the Highest and Best Use of the remaining portion of land should be stated, including the reasons why the Highest and Best Use remains the same or has changed by virtue of said partial acquisition. This determination must be undertaken in conformance with a Highest and Best Use analysis described herein.
- B. Value Estimate by Market Approach: This section of the Report should determine market value of the subject property according to the following analyses.
  - a. Direct Sales Comparison - The Appraiser's opinion of the value of the land must be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. In general, a minimum of five comparable sales is required. In special circumstances, however, a lesser number may be used. Where a lesser number is used, acceptable reasons must be given why other comparable sales are not available. No comparable sales should be used which are older than three years, except under unusual circumstances, which circumstances should be fully explained in the Report. All comparable sales used must be personally inspected and photographed by the Appraiser and should be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale, and the Report should indicate by whom confirmation was given. Include these references in the Report addenda. The following information and steps must be included:
    - i. A summary of comparable sales (lots and acreage) and perimeter sketches (include in Addenda);
    - ii. A map showing the location of the comparable sales (and the subject property, if appropriate);
    - iii. A table or chart showing all relevant adjustments, including changed market conditions, or time. Care should be taken to qualify sales of improved property to eliminate price increases or decreases due to exceptional additional, renovation, rehabilitation, casualty or depreciation of the improvements; and
    - iv. A discussion in detailed, narrative form, discussing such factors as:
      - time
      - location (desirability, view, etcetera)



- zoning and other land use controls
- frontage (water or road)
- topography, including soil type
- utilities (water, gas, electric, sewer)
- cost of extending or installing utilities
- financing (mortgage back, etcetera)
- proposed use intended by the grantee at time of acquisition and present use
- whether it is a contingency sale based on future development of individual lots - the adjustments must not be excessive in relation to the type of property being appraised and the market data available.
- v. Sales from neighboring towns may be used if necessary, providing that adjustments are made for different market characteristics, zoning, and other relevant factors.
- b. Cost of Development Approach - Where the direct sales approach cannot account for the development potential of the subject property, determine the value of the property by use of the development less costs method (a/k/a "cost of development" or "anticipated use" method). Where such method is employed, include the following steps and information:
  - i. Determination of the gross sales value of each lot within the subdivision based on data collected by the direct sales approach, and determination of the net value to the developer after deducting costs (e.g., engineering, construction, marketing, legal, financial and other carrying costs), as well as a percentage for the developer's profit (i.e., return on investment). In determining net value to the developer, extreme care must be exercised in estimating annual cash flow: front end costs may make the use of averages inappropriate. Also, the discount rate must primarily reflect the discounted current value of future income. The risk factor in a theoretical subdivision must be accounted for in the developer's profit rather than in the discount rate.
  - ii. Confirmation of cost figures with professionals in the pertinent field and with local developers.
  - iii. Substantiation of development capacity of the subject property through engineering reports and land use planning.
  - iv. If a separate land planning element of the Report is not prepared, a sketch or plan showing the subdivision of the subject property to illustrate the number, location and size of the lots upon which the Report is based must be included.
- c. Value Comparison and Summary
  - i. The estimate of value arrived at by means of the Development Approach should be compared on a per acre basis with the value arrived at by the Direct Sales Comparison Approach.
  - ii. If the values do not closely agree, the reason for the divergence must be fully explained.

This section may be omitted if the Appraiser determines that use of the market approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- C. Value Estimate by Cost Approach: This section must be in the form of commutative data concerning construction or building materials arranged in sequence (i.e., original cost, depreciation, and current values) and including reproduction or replacement cost, and must state the source (book and page if a national service) of all figures used. If an acquisition by eminent domain is possible, the Appraiser should employ a cost estimator or engineer to determine the cost new. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, should be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

This section may be omitted if the Appraiser determines that use of the cost approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- D. Value Estimate by Income Approach: This section of the Report must include adequate factual data to support each figure and factor used and must be arranged in detailed form to show at least (a) estimated gross economic rent or income, (b) allowances for vacancy and credit losses; and (c) itemized estimate of total expenses, including reserves for replacements. All data must be source documented and justified. In reference to comparable rental properties, include the name of the lessor, the lessee, the terms and date of the lease, and verification thereof.

Capitalization of net income must be based upon the type of property and location similar to the subject property. The

capitalization technique, method and rate used should be fully explained in narrative form, supported by a statement of sources of rates and factors. Include adequate documentation to support the income, expenses, interest rate, remaining economic life and capitalization rate. Where it is determined that the economic rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

This section may be omitted if the Appraiser determines that use of the income approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- E. Interpretation and Correlation of Estimates: Interpret the foregoing estimates and should state the reasons why one or more of the conclusions reached are indicative of the market value of the property. Include a summary of the data seen by the Appraiser to be most pertinent to the appraisal assignment. A clear explanation of how the data are interpreted, weighted and mathematically treated to reach the value conclusion must be provided.
- F. Less than Fee Acquisitions: Where the appraisal assignment is for determination of the value of less than fee interests in land (e.g., conservation restrictions), the Appraiser must determine the value of this interest by use of the before and after method. The Appraiser must fully detail the analysis of the highest and best use of the subject property without the restriction or easement as described herein, and clearly explain any changes in the highest and best use after imposition of the restriction or easement.
- G. Severance Damages: If the property being appraised in a partial acquisition or taking, or is a separate parcel but physically contiguous to other land of the owner, or is under the same ownership but physically non-contiguous to other land of the owner (but which may add value to the non-contiguous parcel, e.g., by providing access to a body of water), severance damages must be fully described and discussed. The method of value estimation should be the before and after method. The amount of the severance damages should be determined mathematically as well as described in narrative form.
- H. Enhancement: The Appraiser should investigate and determine whether the acquisition will enhance the value of the remaining property of the owner. If so, the method of value estimation must be the before-and-after method. The Report must set forth the enhancement value separately, with a full discussion and analysis of the factors giving rise to the enhancement.
- I. Changes in Valuation Caused by the Public Use or Improvement: Notwithstanding subsections F. and G. above, any change in the fair market value of real property prior to the date of valuation caused by the public use or improvement for which such property will be acquired, or by the likelihood that the property would be acquired for such use or improvement, will be disregarded in determining fair market value of the property.

## **V. EXHIBITS AND ADDENDA TO BE INCLUDED IN EACH REPORT**

All maps and plans may be bound as facing pages opposite the description, tabulation or discussions they concern.

- A. Subject Location Map (within the city or area)
- B. Comparative Map Data (show geographic location of the subject property and the comparative parcels analyzed).
- C. Detail of the Comparative Data
  - a. Color Photograph of the Property (in the case of unimproved woodland, a photograph across the frontage showing the road frontage and surrounding area)
  - b. Grantor
  - c. Grantee
  - d. Date of Sale
  - e. Recording Data
  - f. Source of Information
  - g. Breakdown of Sales Price
    - i. amount to land
    - ii. amount to improvements
  - h. Terms of Sale
  - i. Improvements at Time of Sale
  - j. Use of property
  - k. Zoning
  - l. Description of property
    - i. size

- ii. shape
  - iii. amount of frontage
  - iv. topography
  - v. utilities available
  - vi. amenities
  - vii. assessed value
- D. Plot Plan: The plot plan should include the approximate location of any improvements, easements, right of ways, flood plain zoning lines, and/or other encumbrances that exist or have been placed upon the property.
- E. Deed
- F. Floor Plans (when needed to explain the value estimates)
- G. Flood Plain Zoning Map (where applicable)
- H. Local Zoning (excerpts as required to support the appraisal)
- I. References (detail the sources from which the Appraiser drew information contained in the Report. Where information is from an office or individual, the appraiser should identify the name, address, capacity and telephone number of the source of such information. Also list junior appraisers, researcher, etc. who assisted in preparation of the report)
- J. Other Pertinent Exhibits (e.g., timber cruise, land planning report, engineering report)
- K. A Resume of Qualifications (for all appraisers and other experts contributing to the determination of value in the Report).
- L. Owner's Property Inspection Certificate: The appraiser must invite the landowner or his or her representative to accompany the appraiser during inspection of the property. To allow the landowner time to make the necessary arrangements, the invitation should be made appropriately in advance of the planned inspection date. Reasonable efforts should be made to include the landowner or his or her representative in the inspection. The appraiser should consider any information the landowner may provide which is relevant to the issue of the value of the property inspected. However, the appraiser must use his or her best judgment as to the usefulness of any information provided by the landowner. See Exhibit 2.

#### VI. REPORTS OTHER THAN COMPLETE, SELF-CONTAINED

Reports other than Complete, Self-Contained appraisal reports must be prepared in compliance with the then current Uniform Standards of Professional Appraisal Practice (USPAP). Such reports may include complete appraisals in Summary or Restricted reports, or limited appraisals in Self-Contained, Summary or Restricted reports.

---

---

**EXHIBIT I**

**CERTIFICATE OF VALUE**

OWNER(S):

ADDRESS/LOCATION OF PROPERTY:

I, \_\_\_\_\_ HEREBY CERTIFY THE FOLLOWING: THAT ON \_\_\_\_\_, I PERSONALLY MADE A FIELD INSPECTION OF THE PROPERTY HEREIN APPRAISED AND HAVE AFFORDED THE OWNER THE OPPORTUNITY TO ACCOMPANY ME ON THIS INSPECTION;

That to the best of my knowledge and belief, the statements contained in the appraisal here set forth are true, and the information upon which the opinions expressed herein are based in correct, subject to the limiting conditions therein set forth;

That I understand that such appraisal may be used in connection with acquisition of the subject property by the City/Town of Massachusetts;

That such appraisal has been made in conformity with the appropriate state laws, regulations, policies, specifications and procedures;

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein;

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised; and

THAT MY OPINION OF THE VALUE OF THE PROPERTY AFFECTED BY THE PROPOSED ACQUISITION OR TAKING, AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ IS \_\_\_\_\_, AND THAT THE CONCLUSIONS SET FORTH IN THIS APPRAISAL ARE BASED UPON THE EXERCISE OF MY INDEPENDENT PROFESSIONAL JUDGMENT.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

**EXHIBIT 2: OWNER'S PROPERTY INSPECTION CERTIFICATE**

1. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name(s) of Supposed Owner(s) Telephone Number with Area Code
- Address \_\_\_\_\_
- Town/City \_\_\_\_\_ State \_\_\_\_\_ Area Code \_\_\_\_\_
2. Please check appropriate line
- \_\_\_\_\_ I wish to accompany the appraiser on an inspection of my property.
- \_\_\_\_\_ I wish to have my representative accompany the appraiser(s) on an inspection of my property.  
(Please fill in Item 3.)
- \_\_\_\_\_ I do not wish to accompany the appraiser(s) on an inspection of my property.
3. \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name of Authorized Representative Telephone Number with Area Code
- Address \_\_\_\_\_
- Town/City \_\_\_\_\_ State \_\_\_\_\_ Area Code \_\_\_\_\_
4. The following individuals and/or entities occupy the premises in accordance with an agreement as indicated (lease, life estate, etc.):
- a. \_\_\_\_\_ b. \_\_\_\_\_  
Name of Individual or Entity Name of Individual or Entity
- \_\_\_\_\_ Occupied Premises \_\_\_\_\_ Occupied Premises
- \_\_\_\_\_ Type of Agreement \_\_\_\_\_ Type of Agreement
5. I certify that I have given the above-referenced tenants or occupants notice of the appraiser's inspection of the property.
- \_\_\_\_\_ Name(s) of Supposed Owner(s)
6. I hereby authorize the appraiser to enter and inspect the property, after reasonable notice, for the purposes of preparing an appraisal.
- \_\_\_\_\_ Owner's Signature \_\_\_\_\_ Date

Attachment H

301 CMR 5.00: SELF-HELP AND URBAN SELF-HELP PROGRAMS

NOTE: Self-Help is now the LAND program: Local Acquisitions for Natural Diversity  
Urban Self-Help is now the PARC Program: Parkland Acquisition and Renovation for Communities

Section

- 5.01: Authority
- 5.02: Purpose
- 5.03: Definitions
- 5.04: Eligibility
- 5.05: Project Application and Selection
- 5.06: Project Conditions
- 5.07: Project Costs
- 5.08: Post-Completion Responsibilities
- 5.09: Conversion
- 5.10: Guidance Documents
- 5.11: Severability

5.01: Authority

301 CMR 5.00 is promulgated pursuant to M.G.L. c. 21A, § 2, M.G.L. c. 132A, § 11, as amended, St. 1977, c. 933, as amended, and St. 1996, c. 15.

5.02: Purpose

301 CMR 5.00 is promulgated to implement the Self-Help and Urban Self-Help grant programs by establishing uniform grant application, selection procedures and program requirements. Both the Self Help and Urban Self Help grant programs have two separate programs: an annual program in accordance with the grant cycle of 301 CMR 5.05(4); and a rolling program subject to periodic notice of availability as described in 301 CMR 5.05(5).

5.03: Definitions

Division means the Division of Conservation Services in the Executive Office of Environmental Affairs.

Extreme Critical Need means a state of financial hardship where a municipality has an unemployment rate exceeding 10% or where a major business or facility closing has caused devastating economic dislocation and a substantial decrease in the municipality's tax base.

Major State Public Institution means an institution including, but not limited to state and county prisons, mental health facilities, regional solid waste facilities, and federal and state military reservations. Institutions of public higher learning are excluded.

Open Space and Recreation Plan means a bound document containing the following: a summary; statement of purpose including planning process and public participation; community setting; environmental inventory and analysis; inventory of lands of conservation and recreation interest; community goals; analysis of needs; goals and objectives and five-year action plan; maps and letters of comment from the chief municipal officer; planning board and regional planning agency. Guidelines and a workbook for developing plans are available from the Division.

Particular Environmental Sensitivity means Projects located within a state-designated Area of Critical Environmental Concern ("ACEC"); or containing significant plant or animal habitat, a vernal pool, or endangered, threatened or special concern plant or animal species as certified by the Massachusetts Natural Heritage Program office; or, containing known, important archeological or historic resources and on or eligible for inclusion in the State Register of Historic Places. Particular Recreational Importance means, but is not limited to, a project that is the "flagship" or centerpiece of a community's park and recreation system; an acquisition project that significantly addresses an imbalance between the available recreation acreage per capita and the National Recreation and Park Association Standards for such acreage; a coastal or inland swimming facility;

and unique recreational facilities such as zoos.

Project means the acquisition, planning, or design of conservation land reimbursed by the Self-Help Program, or the acquisition, development or renovation of parkland reimbursed by the Urban Self-Help Program.

Project Selection System means a project rating system based on a 100-point scale. The Self-Help Project Selection System awards 50 points based on demographic factors of the applicant community and 50 points based on project quality. The Urban Self-Help Project Selection System awards 40 points based on demographic characteristics of the applicant community and 60 points based on project quality. Each program's selection system awards six points for implementation of the community's open space plan and up to ten bonus points if the applicant community has or plans to site a major state public institution or has passed a debt limit override vote of open space purchases in the preceding two years.

Projects of Particular Environmental Sensitivity may be eligible for points in the rating system, and possibly an increase in the reimbursement rate. Applicants claiming eligibility for additional reimbursement for projects of Particular Environmental Sensitivity must include written comments from any of the following state agencies, as applicable: Coastal Zone Management, the Department of Conservation and Recreation's ACEC program, the Massachusetts Natural Heritage and Endangered Species Program, or the Massachusetts Historical Commission. The Secretary shall develop and may review and modify, at the Secretary's discretion, selection systems for the Self-Help, Rolling Self-Help, Urban Self-Help, and Rolling Urban Self-Help grant programs. The selection systems shall be set forth in Guidance Documents available from the Division.

Regional Project is a recreation facility that serves a population of at least 35,000 people who reside within a 25-mile radius of the facility, has parking for at least 100 cars and adequate comfort stations. Regional Projects generally provide multiple opportunities for picnicking, walking, canoeing, boating, fishing, children's recreation, and swimming. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for regional projects are available from the Division.

Rolling Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Rolling Urban Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Urban Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Secretary means the Secretary of Environmental Affairs or the Secretary's designee.

Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of the allowable costs towards the purchase of land for conservation and passive recreation purposes.

Special Advisor for Environmental Justice Issues means a person so named and designated by the Secretary to review Urban Self-Help grant applications and advise the Secretary on the importance of each application in addressing environmental justice concerns.

Small Town Project is a Project which qualifies only for a maximum of \$50,000 where a community does not meet the population criteria of a city or town of over 35,000 and is not undertaking a Regional or Statewide Project.

Statewide Project is a recreation facility located within a one hour driving time from more than one Metropolitan Statistical Area, accommodates at least 200 vehicles, provides adequate comfort stations, and will also provide for more dispersed or uncommon recreation opportunities such as equestrian trail use, overnight camping, nature center programs, golf, group picnicking, large beach use, boating, skiing, and live animal viewing such as zoos. Any Project located on Nantucket Island, Martha's Vineyard, and the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham is considered statewide regardless of the project scope. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for statewide projects are available from the Division.

Urban Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.



#### 5.04: Eligibility

(1) Planning Requirement. No application will be considered by the Secretary until the Applicant has filed an approved Open Space and Recreation Plan or submits a draft plan with the preliminary application. If a municipality's plan has not been approved by the Secretary at the time of the project selection process, there will be no rating points awarded for plan implementation under the Project Selection System.

(2) Self-Help Program.

- (a) Only municipalities with Conservation Commissions duly established pursuant to M.G.L. c. 40, § 8C are eligible to participate in the Self-Help Program.
- (b) Self-Help Program grants are available to fund the acquisition of land for conservation purposes, and to plan or design suitable public outdoor facilities for these properties.

(3) Urban Self-Help Program.

- (a) Only municipalities with a park, playground, or recreation commission, or any combination thereof, duly established pursuant to M.G.L. c. 45, § 2, and a Conservation Commission duly established pursuant to M.G.L. c. 40, § 8C, are eligible to participate in the Urban Self-Help Program.
- (b) Urban Self-Help Program grants are available to fund the acquisition of land for park and outdoor recreation purposes, and for the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.
- (c) The following municipalities are eligible to apply for Urban Self-Help grants:
  - 1. Any city or a town of over 35,000 year round inhabitants; or
  - 2. Municipalities with a population of less than 35,000 year-round inhabitants that:
    - a. propose Statewide or Regional Projects and demonstrate regional or statewide usage to the satisfaction of the Secretary; or
    - b. propose a Small Town Project.
- (d) The Special Advisor for Environmental Justice Issues shall publicize in urban areas the existence of the Urban Self-Help Program, and publicize, make available and assist municipalities with interpreting the Urban Self-Help Program guidelines.

(4) Affirmative Action and Accessibility. To be eligible for assistance, municipalities must be in compliance with a Civil Rights Review Comment from the Massachusetts Commission Against Discrimination, and Executive Order No. 215, concerning Disbursement of State Development Assistance for Affordable Housing. Municipalities must also show that all parks and recreation facilities are in compliance with the Americans with Disabilities Act (P.L. 101-336), formerly required under Section 504 of the Rehabilitation Act of 1973, P.L. 93-112 (Federal Handicapped Accessibility Guidelines), as amended; and Department of Interior Regulations 43 CFR 17, Subpart B, or show how and when such facilities will be brought into compliance with the above regulations.

(5) Extreme Critical Need. When a municipality can demonstrate that it has extreme critical need or that its project is one of particular recreational importance as defined in 301 CMR 5.03, it may receive up to 10% more reimbursement of the total project cost. No more than five municipalities per year will be awarded this additional funding.

(6) Upon request, the municipality or its authorized representative shall provide all records, books, papers, documents, or other data relating to the Program grant to the Secretary for examination.

(7) Each program participant shall cause work on the Project to proceed within a reasonable period of time after receipt of notification from the Division that funds have been approved and will pursue the Project to completion with reasonable diligence.

#### 5.05: Project Application and Selection

(1) Application Step Procedures. Applications shall be submitted to the Secretary in accordance with the Application Guidelines of the Division, which are available upon request.

(2) Appraisal Reports. Applications for acquisition assistance shall be accompanied by an appraisal report prepared according to the Appraisal Report Guidelines of the Division, which are available upon request.

(3) Project Selection System. In order to distribute limited Self-Help and Urban Self-Help funds among an overwhelming number of applicants, the Secretary has developed a review process called the Project Selection System. The Project Selection System considers a number of demographic, social, environmental, and project quality factors in order to identify

those projects which best protect natural resources or recreation amenities where appropriate in communities that have the greatest need for financial assistance and that have made efforts to implement their open space plans in coordination with local planning for future growth. The Project Selection System Guidelines for each grant program are available upon request from the Division.

(4) Self-Help Program and Urban Self-Help Program Grant Cycle.

The annual filing deadline for applications shall be June 1 of each year. The Secretary may alter or extend this deadline provided that public notice of the change is given at least 90 days in advance of the new deadline. Grants shall be made only once in the annual fiscal cycle; however, grants may be adjusted after the award for cause.

(5) Rolling Program Specific Requirements

- (a) Rolling Self-Help Program grants must meet all requirements applicable to the Self-Help grant program, excluding the grant cycle requirement as described in 301 CMR 5.05(4).
- (b) Rolling Urban Self-Help Program grants must meet the all requirements applicable to the Urban Self-Help grant program, excluding the grant cycle requirement as described in 301CMR 5.05(4).
- (c) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Self-Help Program.
- (d) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Urban Self-Help Program.
- (e) The Secretary shall provide notice of availability of funding and the associated filing deadline for any grant funding offered under either the Rolling Urban Self-Help or the Rolling Self-Help Programs. Such notice shall be effective when published either in the Massachusetts Register or the Environmental Monitor.
- (f) The Secretary may announce rolling grant rounds and accept applications from time to time and subject to available funding.

5.06: Project Conditions

- (1) Off-street parking and land use and management plans may be required at the discretion of the Secretary depending upon the size of the project area, its intended use(s), the nature of the resource(s), and the availability of public transportation and on-site parking.
- (2) Additional project conditions may be required by the Secretary to enhance public benefit or protection of natural resources.
- (3) Program participants shall provide for fair and equitable treatment of persons and businesses to be displaced as a result of the project, and shall comply with M.G.L. c. 79A, as amended, Titles II and III of the federal Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) where concurrent federal financial assistance is sought or intended for subsequent project phases.
- (4) Property acquired or improved with Self-Help Program assistance shall be under the care, custody, and control of the Conservation Commission. Property acquired or improved with Urban Self-Help Program assistance shall be under the care, custody, and control of either the Conservation Commission or the Recreation Commission.
- (5) A failure to comply with the conditions of any grant contract may result in the reduction, suspension, or withdrawal of awarded grant funds.

5.07: Project Costs

- (1) Each grant program provides reimbursement of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration or rehabilitation of land for park and outdoor recreation proposes. The maximum reimbursement percentage allowed for an approved project based on the municipality's equalized valuation per capita decile rank among all Massachusetts municipalities as determined by the Secretary of Administration and Finance. A municipality's rank, and therefore its percentage of reimbursement potential, may change annually based on its increase or decrease in property valuation and population growth. The Secretary may reduce the maximum reimbursement percentage to allow for a more equitable distribution of limited funds among all municipalities. The annual reimbursement schedules are available from the Division.
- (2) Subject to the approval of the Secretary, all reasonable costs associated with acquisition projects shall be eligible for reimbursement. Costs for appraisals, title searches, recording fees, surveys, costs associated with 301 CMR 5.06(3), as well as the actual approved purchase price are deemed to be eligible acquisition project costs. In addition, for Urban Self-Help

Projects, the actual approved purchase price, engineering, design, construction, and construction supervision are deemed eligible project costs, however, the Secretary shall retain the right to set a fixed limit on the reimbursement of Project costs. Additional information on reimbursement procedures is available from the Division upon request.

(3) As required by M.G.L. c. 132A, § 11, reimbursement under the Self-Help and Urban Self-Help Programs will occur only after the participant has expended an amount equal to the total cost of the project and not until the project has been completed to the satisfaction of the Secretary. Billing procedures and forms are available from the Division.

(4) Federal funding sources such as Community Development Block Grants or Revenue Sharing that are defined by the federal government to be local money may be used to match program funds. Program reimbursements for Urban Self-Help projects may be paid periodically upon request for payments made by a municipality. Billing procedures and forms are available from the Division.

(5) The Division encourages charitable contributions for conservation purposes either in cash or real property. While real property contributions are not reimbursable, cash contributions may be utilized as the municipality's share of the project providing said cash contribution is deposited into a separate municipal account such as authorized under M.G.L. c. 40, § 5, Cl. 51 and is expended therefrom as part of the municipal appropriation for the acquisition or development. Cash contributions returned to the municipality after acquisition are also encouraged. If such contribution is prearranged or likely to occur, the appraisal process should be closely scrutinized, to avoid even the appearance of impropriety. Participants and potential donors should carefully familiarize themselves with M.G.L. c. 268A, the Conflict of Interest law. Donors must not exert undue influence in selling their property and it must be sold at a fair price in order to avoid a conflict of interest.

#### 5.08: Post-completion Requirement

(1) Operation, Maintenance, and Reasonable Use Limitations. Property acquired or developed with Program assistance shall be operated and maintained in accordance with standards and guidelines of the Division. In accordance with the applicable program contract, participants may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Program assistance as necessary for maintenance or preservation.

(2) Nondiscrimination. Property acquired or developed with Program assistance will be open to entry and use by all persons who are otherwise eligible regardless of race, color, national origin, sex, sexual preference, age or disability.

(3) Nondiscrimination on the Basis of Residence.

(a) Discrimination on the basis of residence, including preferential reservation, membership or annual permit systems, or user fees is prohibited on the Project site unless this provision is waived by the Secretary.

(b) The Secretary will approve or deny all proposed fee or access limiting systems. Waivers will not be granted which are inconsistent with the Federal Land and Water Conservation Fund Act, P.L. 88-578, Section 6(f)(8), 16 U.S.C. § 4601-4. et seq.

#### 5.09: Conversion and Reversion

(1) Conversion. Property acquired or developed with assistance from the Self-Help or Urban Self-Help Program shall be retained and used at all times for open space purposes in accordance with M.G.L. c. 132A, § 11, and St. 1977, c. 933. Any property so acquired or developed shall not be wholly or partly converted to other than public outdoor recreation or conservation purposes without the approval of the Secretary. Converted property shall comply with Article 97 of the Massachusetts Constitution and shall be replaced with land of at least equal fair market value and of reasonably equivalent usefulness. The Secretary may disapprove conversion requests or reject proposed property substitutions. Grant contracts, at the discretion of the Secretary, may be subject to specific performance.

(2) Reversion. Property acquired or improved with Program funds authorized by St. 1996, c. 15 shall be retained and used at all times for open space purposes in accordance with M.G.L. c. 132A, § 11, as amended, or St. 1977, c. 933, as amended. In the event that the property ceases to be used, either in whole or in part, for such purposes, all interest in the property shall revert to the Commonwealth, unless the Secretary demands specific performance of the grant contract.

(a) Owners of property so acquired or improved shall notify the Secretary in writing of any change in use or potential change in use of the property that is inconsistent with said open space purposes. The owner shall have 90 days from the date written notice was received by the Secretary to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert. Upon receipt of written notice, the Secretary may review the circumstances of the property and determine that reversion of the

property is not appropriate or essential to the protection of public open space, and find that the provisions of 301 CMR 5.09(1) shall apply.

(b) If the Secretary finds that a property acquired or improved with Program funds has ceased to be used for such open space purposes, the Secretary shall notify the owner of the property in writing of this basis. The owner shall have 90 days from the date written notice was mailed to the owner to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert.

#### 5.10: Guidance Documents

The Guidelines or Guidance Documents referenced herein are available free of charge to municipalities upon request from the Division.

#### 5.11: Severability

The provisions of 301 CMR 5.00 are severable, and if any provision or application thereof is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability of the remainder of 301 CMR 5.00.

#### REGULATORY AUTHORITY

301 CMR 5.00: M.G.L. c. 21A, § 2; c. 132A, § 11; St. 1977, c. 933; St. 1987, c. 564, §§ 8 and 9; St. 1996, c. 15, § 2.

Formatting Note: 301 CMR 5.00 occupies pages 15 through 22 of 301 CMR EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS. (PAGES 23 THROUGH 42 ARE RESERVED FOR FUTURE USE.